

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Lawrence Smith & Nancy O'Geary Smith,**  
Petitioners-Appellants,

v.

**Delaware County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 10-28-0083**  
**Parcel No. 220-29-03-027-00**

On August 10, 2011, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioners-Appellants Lawrence Smith and Nancy O'Geary Smith were self-represented and submitted additional evidence in support of their petition. The Board of Review designated Delaware County Attorney John Bernau as its legal representative. The Board of Review submitted documentary evidence in support of its decision. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Lawrence Smith and Nancy O'Geary Smith, owners of property located at 26388 229th Avenue Delhi, Iowa, appeal from the Delaware County Board of Review decision reassessing their property. According to the property record card, the improvements consist of a one-story, frame dwelling having 810 square feet of living area on a pier foundation built in 1950. It has no heat or air conditioning, 55% physical depreciation, a grade 6+00 quality classification, and is in poor condition. The dwelling is located on a 0.887 acre site.

The real estate was classified as residential on the January 1, 2010, assessment and valued at \$36,700, representing \$19,000 in land value and \$17,700 in dwelling value. This was an increase from the previous year's assessment.

The Smiths protested to the Board of Review on the grounds that the assessment was not equitable as compared to similar properties in the taxing jurisdiction under Iowa Code 441.37(1)(a), that the property was assessed for more than authorized by law under section 441.37(1)(b), and there is an error in the assessment under section 441.37(1)(d). They claimed \$24,040, allocated \$8490 to land value and \$15,550 to dwelling value, was the actual value and a fair assessment of the property as of January 1, 2010. The Board of Review denied the protest.

The Smiths then appealed to this Board on the ground of equity. They now seek an assessed value of \$25,200, representing \$10,000 in land value and \$15,200 in dwelling value.

Lawrence Smith testified there was a 56% increase in his assessment from 2009 to 2010. He identified other area properties he considered similar to his that had smaller increases or had decreases in their 2010 assessments. Smith also provided 2008 through 2010 statistics on national inflation rate and on state-wide and local property value changes. Smith claims the assessor's office did not take into account the downturn in the market. He believes his current assessment should reflect only a 2% increase from his 2009 assessment. We note inflation factors do not parallel market conditions. Additionally, in his opinion, 60% of his site is unusable due to the trees, slope, and drainage problems.

The Smiths identified four Lake Delhi area properties they believe support a lower assessment for their property and provided a property record card for each. In their opinion, a comparison between the assessments of these properties with the subject property demonstrates inequity. Exhibit 4 was the property record card for a 0.880 acre lot in the lake area with a quality/land rating of R-50. Exhibit 5 was the property record card for a 0.227 acre lot in the lake area with a quality/land rating of R-250. Exhibit 6 was the property record card for a 0.219 acre lot with 68.68 effective front foot of water-front with a quality rating of R-1250. Exhibit 7 was the property record card for a 0.354 acre lot with 102.29 effective front foot of water-front also with a quality/land rating of R-1250. We note two of Smiths' exhibits are water-front properties compared to the subject's off-lake location. The subject

property, unlike the properties Smith provided for comparison, has a quality/land rating of above normal (coded as A NML). These properties differ in location, quality rating, unit of measurement, and unit price from the subject property. As such, they are not comparable properties or suitable for use in an equity analysis. For example, the above-normal quality/land rating of the subject property has a unit price of up to \$35,000 per acre which is fourteen times the \$2500 per-acre unit price of R-50 quality/land. The following shows the unit of measurement and unit price for each quality rating:

Quality	Unit Price	Unit of Measurement
Above Normal	\$ 35,000	Acre
R-250	\$ 250	Effective Front Foot
R-50	\$ 2,500	Acre
R-1250	\$ 1,250	Effective Front Foot

Delaware County Assessor Jodi Cahalan testified on behalf of the Board of Review. She indicated the reason for the large increase to the Smiths' property was due to the fact that a reassessment of residential properties had not been done since 1982. For the 2010 assessments Vanguard was hired to do a mass reappraisal and look closely at the land and building values for these properties. The Board of Review submitted Exhibit C, which was Vanguard's Residential Letter of Transmittal to the County. The transmittal letter explains the pricing system used to establish 2010 values. The Assessor also noted that land values were determined using actual sales in the county that occurred in 2008 and 2009.

The Board of Review's Exhibit B includes five off-lake properties on gravel roads with septic systems and wells, similar to the subject property. While the discounting for topography, vacancy, economic obsolescence, and other adjustments may vary for individual properties, these properties all have a quality classification of above-normal and the Assessor uniformly applied the same unit method of pricing by acre as she did to the subject property. This analysis does not support the claim of inequitable assessment.

Reviewing the record as a whole, we find the preponderance of the evidence does not support the Smiths' claim that the property is inequitably assessed as compared to like property as of January 1, 2010.

### ***Conclusion of Law***

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a). Meyer provided no evidence to support his estimate of the fair market value of his property.

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the*

*City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

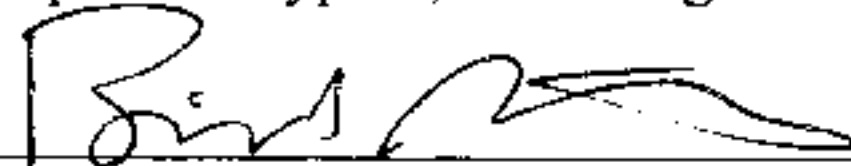
*Id.* at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

Viewing the record as a whole, we determine the preponderance of the evidence does not support the Smiths’ claim that the January 1, 2010, assessment is inequitable. Therefore, we affirm the Smiths’ assessment as determined by the Board of Review. The Appeal Board determines the property assessment value as of January 1, 2010, is \$36,700, representing \$19,000 in land value and \$17,700 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2010, assessment as determined by the Delaware County Board of Review is affirmed.

Dated this 15 day of September, 2011.

  
Jacqueline Rypma, Presiding Officer

  
Richard Stradley, Board Chair

  
Karen Oberman, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>9-15</u> , 201 <u>1</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>[Signature]</u>